

Raising capital through crowdfunding for business ventures has been an applied method for financing start-ups and business projects in Turkey since the recent change on the Capital Markets Code numbered 6362 in 2017 which recognized crowdfunding. Having regulated the basic norms and rules surrounding crowdfunding, the detailed and more rigorous norms were released by Capital Markets Board in the form of a Communique on 3 October 2019, titled Communique on Share-based Crowdfunding.

The public announcement of the long-awaited Communique starts with three virtues of crowdfunding:

1. Crowdfunding provides cheap finance to entrepreneurs and makes it possible to turn the small savings into investments.
2. Not all businesses will be eligible for raising funds through crowdfunding and only those that are selected after a thorough screening will be eligible.
3. All investors will only be able to invest a total of TRY 20.000 (USD 3.500 as of October 2019) at maximum each year to their chosen business. This limit can be increased up to TRY 100.000 (USD 14.000 as of October 2019) depending on the income level of the investor. These limits do not apply to legal entities and “qualified investors” who are defined under relevant legislation of the Capital Markets Board regarding venture capital investment trusts.

The intension of the law maker in regulating crowdfunding is -in its own words- providing new opportunities to innovative and technology-driven start-ups which have the potential to support country's economic welfare. In the same direction, Article 21 of the Communique envisages that the investees must be operating in technological activities and/or production. As said earlier, these businesses will go under screening by investment committees formed under each and every crowdfunding institutions which are authorized by Capital Markets Board to operate. Only if approved by committees can the businesses be able to raise capital from investors. The regulator is in the hope that the procedure scrutinized by the committees under each crowdfunding institution will filter out potential Ponzi schemes.

In other words, the Communique aims to build an infrastructure where the businesses meet fund raisers on a platform, ideally an online one. The scrutiny to be performed by the administration in the structure starts in process of authorizing the said platforms. Only those that are in compliance with the legal responsibilities thereon will be able to be listed by Capital Markets Board as crowdfunding platforms. The activities of the authorized platforms, the principles about memberships and campaigns are regulated in detail under the Communique. For example, the length of any campaign is limited to 60 days on these authorized platforms which means that any participating business has limited time to achieve to raise the desired level of funds. All funds are then passed on to the businesses in exchange for the corresponding shares created for the raise in capital. These shares are digitally created before Centralized Registry Institution and all rights over the shares are traceable on the level of identity of ownership over shares.

It is worth noting that the crowdfunding intermediaries operating outside Turkey is not subject to the Communique as long as they do not solicit in Turkey and they are only reached out by Turkish residents by their own intensions and labor. However, if such foreign institutions establish themselves in Turkey or market their services in Turkey, the Communique also applies to them. In particular, foreign crowdfunding institutions are deemed to have targeted at Turkish market if they establish a workplace in Turkey, publish a website in Turkish language or market their services in Turkey. Nevertheless, it is left open in the Communique what other examples might be. Therefore, foreign crowdfunding institutions are advised to consider the implications of the Communique before they target Turkish investors and businesses as they are not immune from the reach of the Communique just because they are established outside Turkey (Article 13 of the Communique).

All considered, it is promising to see that Turkey is catching up with the economies which had made crowdfunding an available source of finance to start-ups not long before. Yet, the Communique is not an ultimate source of knowledge when it comes to the intersection where crypto-currency ICOs and crowdfunding meet. For example, blockchain start-ups can raise funds through crowdfunding, if successful in the mentioned pre-selection. However, they cannot promise to offer coins to investors in exchange for the collected funds. The return must be the newly-issued shares over the company itself, not tokens of the company.

